

Message Text

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SUBJ: TERRORISM: HARSH NEW ANTI-TERRORIST LAW TAKES EFFECT

REF: A) MADRID 5898 DTG 2311205Z AUG 75

B) A-21 OF FEB 7,1975

SUMMARY: SPAIN'S NEW ANTI-TERRORIST DECREE/LAW OF AUG 27
IMPOSES SEVERE SENTENCES ON TERRORISTS OR COLLABORATORS
AND SUSPENDS CERTAIN CONSTITUTIONAL GUARANTEES IN RESPECT OF
INVESTIGATIONS AND JUDICIAL PROCESSING OF TERRORISM CASES.
THE GOVT MAY HOLD PRISONERS INCOMMUNICADO UP TO TEN DAYS AND
SEARCH WITHOUT COURT WARRANT. THE LAW PRESCRIBES SEVERE
PENALTIES FOR PUBLISHERS, EDITORS, AND NEWS COMMENTATIORS
FOR ARTICLES THOUGHT TO ENCOURAGE OR SUPPORT TERRORISM.
THE GOS DEFENDS THE LAW AS COMPARABLE TO THOSE RECENTLY ADOPTED
IN UK, FRANCE, ITALY AND FRG. END SUMMARY

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1. THE ANTI-TERRORIST DECREE/LAW APPROVED BY COUNCIL OF

MINISTERS AUG 22 TOOK EFFECT AUG 27 FOLLOWING PRO FORMA CLEARANCE BY LEGISLATIVE COMMITTEE OF "CORTES" (REF A). THE PREAMBLE JUSTIFIES THE NEED FOR TWO-YEAR SUSPENSION OF TWO BASIC RIGHTS IN RESPECT OF TERRORISM CASES: HABEAS CORPUS AND SEARCH WITHOUT COURT WARRANT. IN THE TEXT, THE LAW IS COMPARED WITH MEASURES RECENTLY ADOPTED IN UK, FRANCE, ITALY, AND UNDER CONSIDERATION IN FRG.

2. THE LAW PRESCRIBES DEATH PENALTY FOR ATTACKS ON MEMBERS OF ARMED FORCES, POLICE AND VICTIMS OF KIDNAPPING. IT OUTLAWES COMMUNIST, ANARCHIST AND SEPARATIST ORGANIZATIONS. THE LAW FIXES MAXIMUM PRISON TERM FOR ANY WHO AID AND ABET TERRORISTS OR MEMBERS OF THE THREE OUTLAWED CATEGORIES OF ORGANIZATIONS.

3. IN THE PROCEDURAL SIDE THE LAW SPECIFIED THAT EITHER JUDGES AND THE PUBLIC ORDER TRIBUNAL OR THE MILITARY COURTS WILL HAVE JURISDICTION DEPENDING ON THE NATURE OF THE CRIME. SUSPECTS MAY BE HELD FOR FIVE DAYS INCOMMUNICADO AND UP TO TEN DAYS IF AUTHORIZED BY THE RESPONSIBLE JUDGE WHO MUST BE INFORMED OF ARRESTS WITHIN 72 HOURS. THE POLICE MAY CARRY OUT SEARCHES ON PRESUMPTION THAT SUSPECTED TERRORIST IS IN HIDING, BUT MUST INFORM THE COMPETENT JUDGE IMMEDIATELY BY MEANS OF A DULY EXECUTED WRITTEN AUTHORIZATION REQUEST. DEFENSE LAWYERS WHO "DISRUPT" TRIAL PROCEEDINGS CAN BE DISMISSED AND FORBIDDEN TO DEFEND OTHER CLIENTS IN TERRORISM CASES FOR ONE YEAR.

4. THE LAW EMPOWERS THE COUNCIL OF MINISTERS TO SANCTION PUBLISHERS, EDITORS, AND NEWS WRITERS WITH SUSPENSION OF PUBLICATION AND/OR THE RIGHT TO EXERCISE THE PROFESSION FOR PUBLICITY FAVORING COMMUNISM, ANARCHISM, OR SEPARATISM, THE USE OF VIOLENCE FOR POLITICAL PURPOSES, GLORIFYING ACTS OF TERRORISM, OR CRITICIZING THE "INDEPENDENCE AND PRESTIGE OF JUSTICE."

5. IN INTERVIEW WITH "YA" (INDEPENDENT MADRID DAILY) THE UNDER SECRETARY OF JUSTICE SAID THAT UK'S RECENT PREVENTIVE LAW ON TERRORISM PROVIDED FOR ARREST WITHOUT RIGHT OF HABEAS CORPUS UP TO FIVE DAYS. HE ALSO SAID GOS HAD STUDIED FRANCE'S LIMITED OFFICIAL USE

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STATUTE ON THE STATE SECURITY COURT, PRESUMABLY AS IF IT WERE COMPARABLE TO SPAIN'S PUBLIC ORDER TRIBUNAL. IN AN UNEXCEPT-IONABLE COMMENT, HE SAID TERRORISM WOULD NOT DISAPPEAR UNLESS THERE WERE INTERNATIONAL SOLIDARITY AGAINST THESE ACTS.

6. THE DIRECTOR GENERAL OF SECURITY TOLD "LA VANGUARDIA" (INDEPENDENT) INTERVIEWER THAT TERRORISM PROMOTED BY ORGANIZATIONS OUTSIDE SPAIN. HE CLAIMED THAT POLICE HAD

ARRESTED ALL TERRORISTS RESPONSIBLE FOR RECENT SHOOTINGS EXCEPT FOR THOSE, ALREADY IDENTIFIED, OUTSIDE SPAIN.

7. NEWSPAPERS HAVE PRINTED FULL TEXT OF DECREE/LAW WHICH HAS RECEIVED HEADLINE TREATMENT AND FAVORABLE COMMENTARY IN REGIME AND REGIME-LEANING JOURNALS. THE PUBLICATION OF DECREE WAS ACCOMPANIED, HOWEVER, BY SEQUESTRATION OF LATEST ISSUES OF FOUR INDEPENDENT WEEKLIES: "CAMBIO 16", "POSIBLE", "DESTINO" AND "DOBLON". NEWSMEN HAVE PRIVATELY EXPRESSED CONSIDERABLE CONCERN TO ACTING PAO THAT NEW DECREE WILL GIVE GOVT A NEW HANDLE WITH WHICH TO HOLD DOWN NEWS COVERAGE AND COMMENTARY. THREE-MONTH BAN ON NEWS COVERAGE OF TERRORISM IN BASQUE PROVINCES DURING STATE OF EXCEPTION WHICH LAPSED JULY 25 HAS, IN THEIR VIEW, BEEN REPLACED BY WHOLESAL BAN WITH PRESCRIBED PENALTIES FOR VIOLATIONS. AS IF THE GOVT WERE SENSITIVE TO SUCH CRITICIMS, THE MINISTER OF PLANNING AND DEVELOPMENT TOLD THE PRESS AUG 28 THAT THE LAW DID NOT ADD UP TO A DE FACTO STATE OF EXCEPTION THROUGHOUT SPAIN.
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